

Office of the
Alabama
Attorney General



LUTHER
STRANGE

Year in Review
2014



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Office of the Attorney General - State of Alabama
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A message from

Attorney General Luther Strange



It is hard for me to believe that my first term as Alabama Attorney General has come to an end. The past four years have been so rewarding, and I am excited to start my second term in office as Alabama's 49th Attorney General. I praise the dedication and hard work of the talented lawyers and staff in this office, the finest law firm that represents the citizens of our State. This 2014 Year in Review highlights some of the major accomplishments and achievements of the Office of Attorney General.

My Office works every day to ensure the physical and financial safety of the citizens of Alabama, and its lawyers handle a broad range of legal issues at both the trial and appellate level. As I continued in my major role as Coordinating Counsel for the Gulf Oil Spill litigation, 2014 rendered a huge victory against BP when the Court determined that it was liable for the spill. My Office is presently working on the damages portion of that case, and saving the taxpayers millions of dollars by handling this case in-

house. We will continue to vigorously seek damages for Alabama and fight fraudulent claims.

In November, 2014, we reached another milestone with the Alabama Supreme Court's issuance of a definitive ruling on illegal gambling - determining that bingo cannot be played on electronic machines in the State of Alabama. That opinion brought clarity, once and for all, that electronic gambling is absolutely against the law. Now, law enforcement and district attorneys across the State of Alabama can clearly enforce the laws together.

Other major initiatives of my office included: oral argument and litigation before the United States Supreme Court; Safe School Awards; Teen Driver Safety, especially discouraging underage drinking and texting while driving; the Annual Law Enforcement Summit; and focusing on the protection of Alabama's citizens, with concentration on domestic violence, sex offenders, human trafficking, and victims of crime.

Produced in-house by the Office of Attorney General, this 37-page report highlights some of the work of each division and section and is published online to save the taxpayers thousands of dollars. This report can be accessed at no cost by visiting www.ago.state.al.us/Page-Year-In-Review.

Thank you for the past four years and for once again allowing me to serve the people of the State of Alabama and giving me the privilege of being your Attorney General.

Sincerely,

A handwritten signature in black ink that reads "Luther Strange". The signature is fluid and cursive, with a long horizontal stroke at the end.

Luther Strange



Office of the Attorney General

Attorney General

The Attorney General is a constitutional officer whose duties and powers are prescribed in Title 36, Chapter 15, of the Code of Alabama (1975). As the State's attorney, he provides legal representation for the state of Alabama, its officers, departments, and agencies. The Attorney General defends the State in all lawsuits in which the State is named as a defendant. He represents the State in all court proceedings wherein the constitutionality of a state statute is challenged.

In addition to defending the State, the Attorney General may initiate court action, both civil and criminal, to protect the State's interests or to enforce state law. The Attorney General represents the State in all criminal actions in the appellate courts of the State of Alabama and in habeas corpus proceedings in the federal courts. He has the authority to superintend and direct the prosecution of any state criminal case.

The Attorney General issues legal advice through formal or informal written opinions to authorized public officials and agencies.

Office Organization

The Alabama Attorney General's Office is the most diverse law firm in the State. As seen from the descriptions throughout this publication, office attorneys handle a broad range of legal issues at the trial and appellate level, as well as other types of legal work for the State. The chart below depicts the office personnel structure. The attorneys in all divisions are assisted by talented support staff, paralegals, and investigators.

The Attorney General is supported by and provides direction to approximately 225 assistant and deputy attorneys general in other departments and agencies throughout state government.

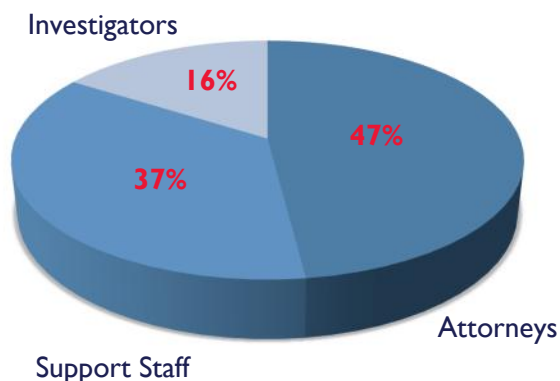


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Attorney Listing

Attorney General

Luther Strange

Chief Deputy

Attorney General

Kevin L. Turner

Solicitor General

Andrew L. Brasher

Executive

Rosa H. Davis

Megan A. Kirkpatrick

Corey L. Maze

Capital Litigation

Richard D. Anderson

Kevin W. Blackburn

James C. Crenshaw*

Thomas R. Govan, Jr.

Tina C. Hammonds

Jon B. Hayden

James R. Houts

Beth J. Hughes

Henry M. Johnson

Lauren A. Simpson

Constitutional Defense

James W. Davis

Margaret L. Fleming*

Laura E. Howell

Misty S. Fairbanks Messick

William G. Parker, Jr.

Winfield J. Sinclair

Criminal Appeals

David P. Bjurberg*

Cecil G. Brendle

Laura Irby Cuthbert

Tracy M. Daniel

John J. Davis

Michael G. Dean

William D. Dill

Stephen N. Dodd

Audrey Jordan

John T. Leverette

Madeline Hinson Lewis

William D. Little

Michael A. Nunnelley

Beth Slate Poe

Andy S. Poole

John M. Porter

James B. Prude

Yvonne H. Saxon

Robin Blevins Scales

Marc A. Starrett

Ferris W. Stephens

Jean A. Therkelson

Kristi O. Wilkerson

Jack W. Willis

Criminal Trials

Andrew D. Arrington

Stephanie C. Billingslea*

Kelly Hawkins Godwin

Leigh Gwathney

John C. Hensley

John L. Kachelman

Ternisha A. Miles

James H. Rutter

General Civil &

Administrative Law

Benjamin H. Albritton

Noel S. Barnes

Kyle A. Beckman

Jason M. Bledsoe

Bettie J. Carmack

Billington M. Garrett*

Mary A. Goldthwaite

Todd E. Hughes

Ellen R. Leonard

Jeffery H. Long

Olivia W. Martin

T. Cameron McEwen

Elizabeth E. Utley Sheehan

Monica S. Sheeler

Robert D. Tambling

Jack W. Wallace

Medicaid Fraud

Control Unit

Bruce M. Lieberman*

Jon R. Moody

Opinions

Ben M. Baxley

G. Ward Beeson

Monet M. Gaines

Brenda F. Smith*

Special

Prosecutions

Michael B. Duffy

M. Matt Hart*

William A. Lisenby, Jr.

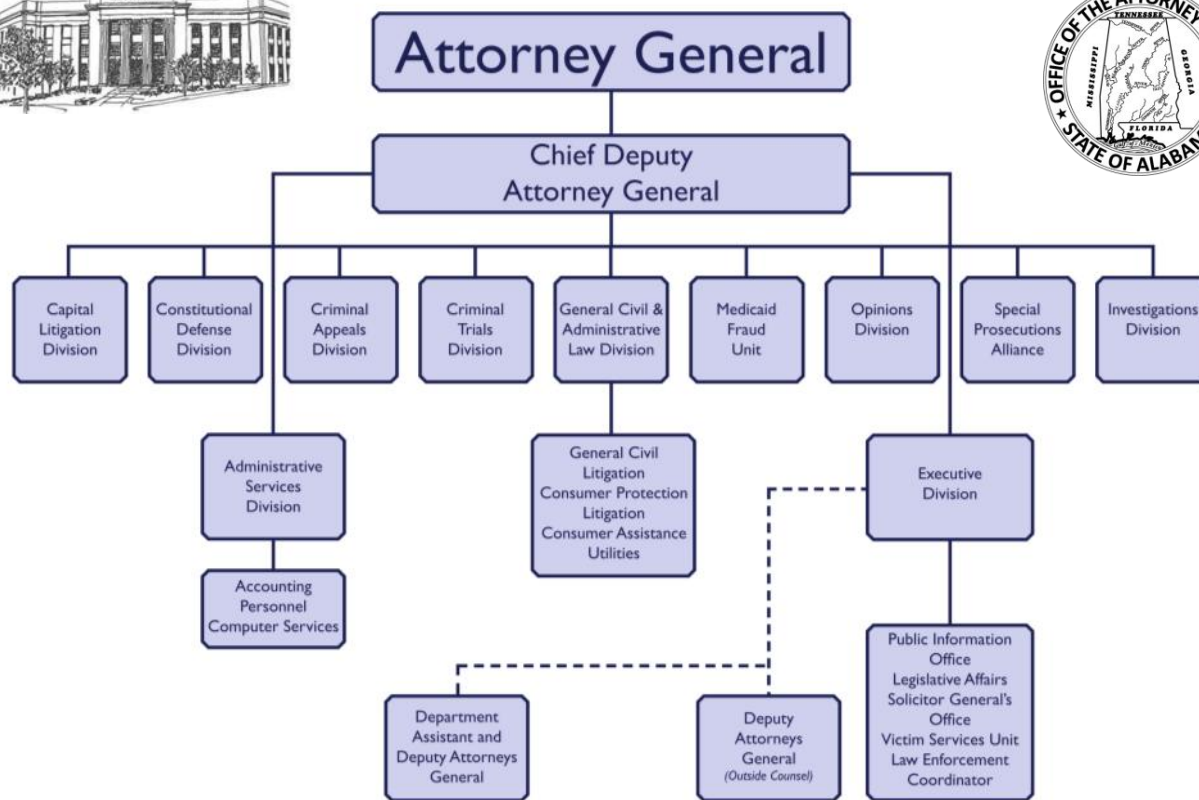
Peter J. Smyczek

*Division Chief

Listing as of publication
date

Organizational Chart

Office of the Attorney General



Legal Division Descriptions

Capital Litigation

The Capital Litigation Division represents the State in all death penalty appeals in state and federal courts. This division seeks to uphold death sentence convictions on direct appeal and in state post-conviction proceedings, federal habeas corpus proceedings, and execution proceedings. This division is also tasked with advising and updating judges, other prosecutors, and the public on death penalty law and procedure.

Constitutional Defense

The Constitutional Defense Division advocates on behalf of the State in civil rights, voting rights, and employment discrimination hearings. It also defends the State in institutional litigation and civil matters in which there is a question of constitutional law.

Criminal Appeals

The Criminal Appeals Division, the largest division within the Attorney General's Office, represents the State in all non-capital criminal matters in state and federal courts.

Criminal Trials

The Criminal Trials Division prosecutes cases from misdemeanors to violent crimes in circuit courts throughout the State. In addition, the division handles complex economic crimes in which private citizens or businesses are the victims.

Executive

The Executive Division encompasses the executive staff, including the Attorney General, Chief Deputy Attorney General, the Solicitor General and deputies, Constituent Affairs, the Press Office, Legislative Affairs, the Law Enforcement Coordinator, Litigation Support and Victim Services.

General Civil & Administrative Law

The General Civil and Administrative Law Division represents the State in civil actions in all courts and before administrative boards as the defender and initiator of civil actions. This division handles a wide range of civil matters including, but not limited to, prisoner litigation, representation in administrative hearings, contract disputes, and related business transactions. This division also houses the Utilities section, which is responsible for representing the public in all matters affecting utility services before the Alabama Public Service Commission, and the Consumer Protection section, which responds to public complaints regarding consumer transactions. The Civil Division also investigates complaints regarding pollution, hazardous waste, and other environmental concerns.

Medicaid Fraud

The Medicaid Fraud Control Unit investigates and prosecutes allegations of fraud and abuse by healthcare providers against the Alabama Medicaid Agency. This unit is also responsible for investigating and prosecuting claims of abuse and neglect of residents in Medicaid-funded facilities.

Opinions

Following a formal, written request, the Opinions Division of the Attorney General's Office provides written opinions on legal questions to state departments, agencies, boards and commissions, local public officials, and political subdivisions.

Special Prosecutions

The Special Prosecutions Division is responsible for investigating and prosecuting crimes resulting from a breach of public trust by governmental officials and employees. This division is composed of investigators and attorneys with years of experience prosecuting both state and federal corruption and complex criminal matters.



Capital Litigation

The Capital Litigation Division represents the State in all appeals in state and federal courts in which a criminal defendant convicted of capital murder has received a death sentence, including the direct appeal, state post-conviction proceedings or Rule 32 stage, and federal habeas corpus proceedings. During 2014, this Division handled the following :

Direct Appeal Stage

- 7 capital murder convictions affirmed by the Alabama Court of Criminal Appeals
- 2 cases reversed by the Alabama Court of Criminal Appeals that granted new trials
- 9 cases affirmed by the Alabama Supreme Court
- 8 cases decided in favor of the State by the United States Supreme Court

Rule 32 Stage

- 7 Rule 32 petitions filed by death row inmates in circuit court denied
- 1 Rule 32 petition filed by death row inmate in circuit court granted
- 9 cases decided in favor of the State by the Court of Criminal Appeals
- 8 cases decided in favor of the State by the Alabama Supreme Court
- 1 case decided in favor of the State by the United States Supreme Court

Federal Habeas Corpus Stage

- 5 cases decided in favor of the State by the United States District Court
- 3 cases decided in favor of the State by the United States Court of Appeals for the Eleventh Circuit
- 3 cases decided in favor of the State by the United States Supreme Court

Key Cases

Jimmy Williams, Jr. v. State, 2014 WL 1392828 (Ala. Crim. App. Apr. 4, 2014). In addressing an issue of first impression, the Court of Criminal Appeals ruled that the United States Supreme Court's holding in **Miller v. Alabama** that the Eighth Amendment forbids a mandatory life-without-parole sentence for juvenile offenders should not be applied retroactively. This ruling affects approximately seventy convicted juvenile murderers and will ensure that they remain in prison without the possibility of parole.

Lam Luong v. State, 2014 WL 983288 (Ala. Mar. 14, 2014). Lam Luong was convicted in Mobile County of capital murder in connection with the deaths of his four children. The Alabama Supreme Court reversed the holding of the Court of Criminal Appeals that had granted Luong a new trial based on a change of venue issue and reinstated Luong's capital murder conviction and death sentence.



Division Staff

Anderson, Richard D.
Blackburn, Kevin W.
Cramer, Courtney M.
Crenshaw, James C. *
Govan, Thomas R., Jr.
Hammonds, Tina C.
Hayden, Jon B.
Houts, James R.
Hughes, Beth J.
Johnson, Henry M.
Newman, Marie F.
Simpson, Lauren A.

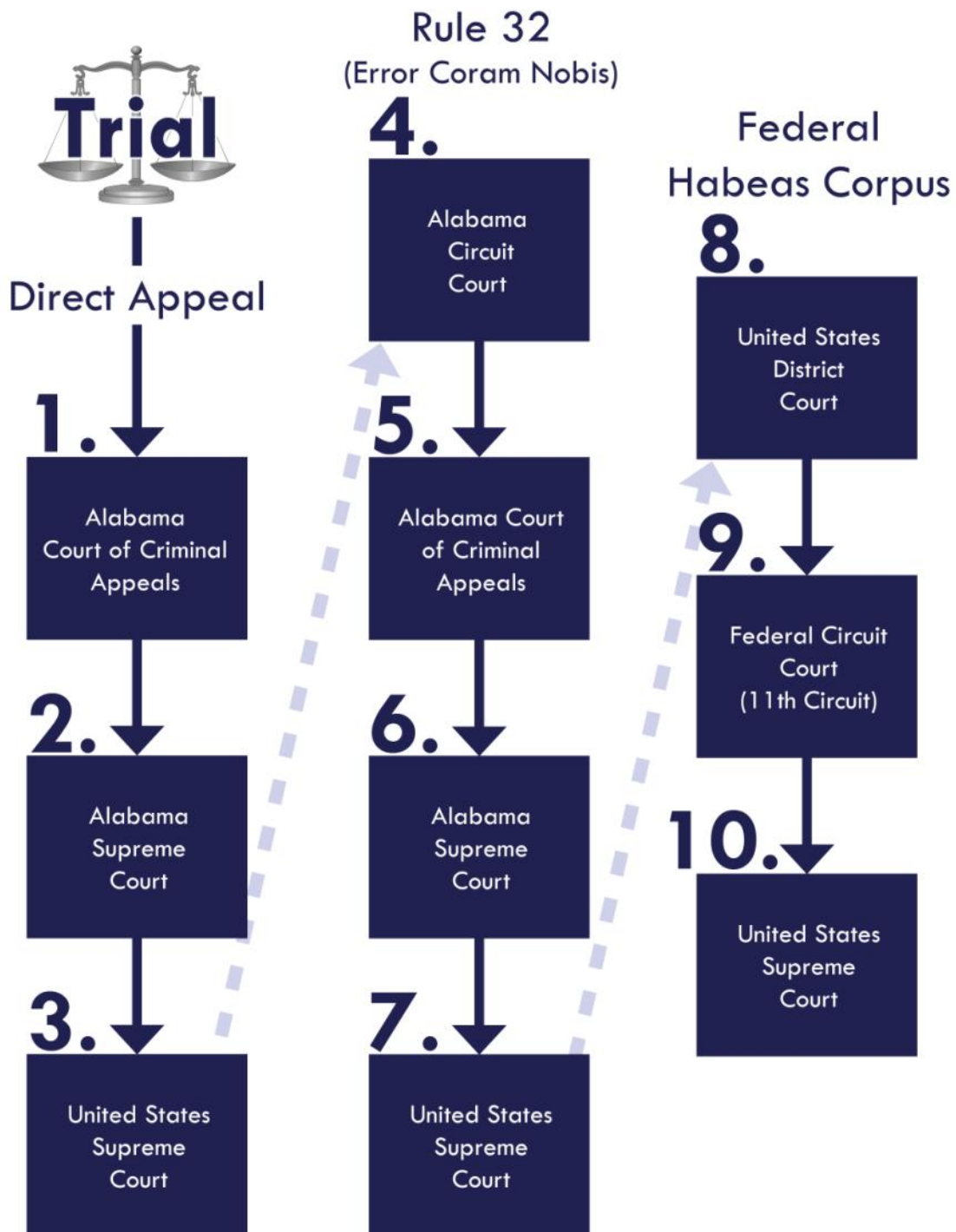
*Chief

Quick Facts:

Impact on Alabama: active appeals in 42 counties during 2014
no executions were carried out in 2014
195 defendants on death row (as of 12/31/2014)
6 new death penalty appeals filed in 2014
171 cases worked or presented in court
Handled 79 total extraditions: In-State 47, Out-of-State 32



Alabama Death Penalty Appeals Process



Constitutional Defense

The Constitutional Defense Division was established in 1998 to handle complex civil lawsuits filed against state agencies and officials. Attorneys litigate in state and federal trial and appellate courts. Cases successfully litigated by this division include class actions, voting rights litigation, and state and federal constitutional challenges to Alabama statutes.

Key Cases

After successfully defending an attempt in 2013 to block passage of the Alabama Accountability Act, Division attorneys defended two challenges this year to the same law. First, in **C.M. v. Bentley**, plaintiffs filed an action in federal court alleging that the Act violated the Equal Protection Clause. **C. M. v. Bentley**, U. S. District Court for the Middle District of Alabama. Division attorneys moved to dismiss the action, and the U. S. District Court ruled in favor of the State, holding that the Act was rationally related to legitimate government interests of education flexibility and resource management. Plaintiffs initially appealed the District Court's ruling, but then dismissed their appeal.

Then, another group of plaintiffs filed a constitutional challenge in state court, objecting to alleged appropriations in the Act and raising procedural objections to the manner in which the Act was passed. **Boyd v. Magee**, Montgomery County Circuit Court. Division attorneys and intervening parents moved to dismiss the action and plaintiffs moved for judgment on the pleadings. The Circuit Court ruled in favor of the plaintiffs, and Division attorneys appealed the action to the Alabama Supreme Court. After briefs were filed, the Alabama Supreme Court granted oral argument. A Division attorney argued the State's case to the Alabama Supreme Court in December 2014, and the State awaits a ruling.

Recent abortion legislation requires all physicians performing abortions in Alabama to maintain staff privileges at a hospital in the same local area as the clinic where an abortion is performed. In **Planned Parenthood Southeast v. Strange**, plaintiffs sued in federal district court, alleging that most of the abortion clinics operating in

Alabama employ out-of-state physicians without that credential, and would therefore be forced to close. As a result, plaintiffs contend that the statutory requirement places an unconstitutional burden on a woman's "right to choose." Division attorneys assisted in the filing of a dispositive motion that led the U. S. District Court in 2014 to dismiss all claims asserted on behalf of the abortion clinics, leaving for trial a single claim, asserted on behalf of women who may seek an abortion. Beginning in May 2014, Division attorneys led a team of attorneys defending the sole remaining claim in a two-week trial before the federal district court that included more than a dozen live and remote witnesses and the innovative use of courtroom technology. Ultimately, the U. S. District Court entered an order declaring the statute unconstitutional. Division attorneys continue to work with the Solicitor General to appeal the ruling to the Eleventh Circuit.

In order for a political party to achieve statewide ballot access in a regularly scheduled election, the party must submit a petition containing the required number of signatures to the Secretary of State's office by the date of



Division Staff

Clemens, Suzanne
Davis, James W.
Fleming, Margaret L. *
Howell, Laura E.
Messick, Misty S. Fairbanks
Moore, Cecelia
Parker, William G., Jr.
Sinclair, Winfield J.

*Chief

Quick Facts:

Impact on Alabama: All **67** counties
90 cases worked on and/or presented in court
Alabama Accountability Act litigation
Abortion law litigation
Ballot Access litigation
Uniformed and Overseas Citizens Absentee Voting Act litigation



Constitutional Defense

the primary election. In 2012, the number of signatures required to achieve statewide ballot access was 44,828, and the deadline for filing the petition was March 13. A group of three political parties, their supporters, and Presidential candidates of two of the parties, filed suit in federal court to challenge the March deadline. **Stein v. Bennett**, U. S. District Court for the Middle District of Alabama. The plaintiffs asserted that the deadline violates their First Amendment rights by preventing them from fielding Presidential candidates with their party labels on the ballot. Plaintiffs' Presidential candidates did appear on the 2012 ballot, but they were listed as independents. (The requirements for independent candidates to get on the ballot for the Presidential race are less stringent than the requirements for gaining statewide ballot access for a political party.) Motions for summary judgment were filed by both sides, and in September 2013, the district court denied the plaintiffs' motion and granted the motion filed by Division attorneys on behalf of Alabama's Secretary of State. The plaintiffs appealed to the Eleventh Circuit. After Division attorneys briefed and orally argued the appeal, the Eleventh Circuit ruled for the Secretary in December 2014.

In early 2012, the United States sued Alabama and its Secretary of State to enforce a requirement of the Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA). **United States v. Alabama**, U. S. District Court for the Middle District of Alabama. At issue in the litigation is a requirement that the State transmit ballots to each UOCAVA voter at least 45 days before a federal primary or general election, if the voter has requested a ballot by that time. The lawsuit was prompted because local officials had problems meeting the deadline. Most of the issues in this case were resolved through agreement early in 2014. The agreement included changes to Alabama's election calendar to facilitate compliance with the 45-day transmission requirement, and those changes were subsequently enacted by the Alabama Legislature. (Act No. 2014-006) There is one area of dispute left in the case, however. Alabama takes the view that the strict 45-day transmission requirement does not apply to federal primary runoff elections, but that the federal statutory scheme Congress enacted gives the States more flexibility, so long as ballots are provided in sufficient time to vote. The United States argues that the strict 45-day requirement applies, regardless of State law. After the parties filed motions for summary judgment and argued the case, the District Court held that the strict 45-day rule applies. To comply with the District Court's judgment, any 2016 federal primary runoff election would need to be held a full nine weeks after the primary; but those elections are only six weeks apart under

existing Alabama law. The State and the Secretary of State appealed, and the Eleventh Circuit granted oral argument. Written briefs have been filed, and a Division attorney will argue the case to the Eleventh Circuit in early 2015.

On March 22, 1983, Judith Ann Neelley was convicted of capital murder in the Circuit Court of DeKalb County and sentenced to death. In 1999, Governor Fob James commuted Neelley's sentence to life imprisonment. Under existing law, Neelley would have been eligible for parole after having served at least 15 years of her life sentence. On March 8, 1999, the Alabama Board of Pardons and Paroles sent Neelley a notice that her case was scheduled for parole consideration in January 2014. In June 2003, Act 2003-300 was passed, and provided that a person whose death sentence has been commuted by the Governor is not eligible for a parole. Act 2003-300 was made retroactive to September 1998. In 2014, Judith Ann Neelley filed suit in federal district court challenging Act 2003-300 on state and federal constitutional grounds. **Neelley v. Walker**, U. S. District Court for the Middle District of Alabama. Specifically, plaintiff alleged that the law is an impermissible ex post facto law or bill of attainder, and that passage of the law violated the separation of power provision of the Alabama constitution. Division attorneys moved to dismiss the complaint in its entirety, asserting among other grounds, that the federal court lacks jurisdiction to consider state constitutional claims. The federal district court agreed with Division attorneys on that point and dismissed the state constitutional claims. The federal claims, however, remain pending, and the case is set for trial in January 2016.



Criminal Appeals

The Criminal Appeals Division is the largest division within the Office of the Attorney General. This division represents the State in all non-death penalty criminal proceedings and handles 1,500 to 1,800 new cases each year. Attorneys in this division recognize the critical roles played by law enforcement officers, district attorneys, and judges in enforcing Alabama's criminal code. Accordingly, lawyers in this division work closely with trial judges, district attorneys, and law enforcement officers to guarantee that investigations and prosecutions incorporate the latest developments in criminal law. Division lawyers also recommend legislation to the Attorney General that will strengthen Alabama's criminal statutes. These recommendations come in the wake of recent appellate court decisions that expose weaknesses in the current code.

Each appellate matter is thoroughly researched, precise arguments are crafted, and a brief on behalf of the State and any victims is presented to the appellate court for review, ensuring that valid convictions and the justice they maintain are not compromised. Upon reversal of a conviction, division attorneys, joined by the Solicitor General's Office, enact all reasonable measures to have that decision overturned by a superior court so that victims and their families may be spared another trial.

Key Cases

In a groundbreaking case regarding the electronic solicitation of children, in **Rosier v. State**, CR-13-0736, 2014 WL 4957738 (Ala. Crim. App. Oct. 3, 2014) the Alabama Court of Criminal Appeals held that the defendant's acts of contacting a person whom he believed to be the children's mother – but who was actually an undercover police officer – constituted the offense of electronic solicitation of a child. The defendant attempted to meet with children to engage in unlawful sexual activity with them by electronically communicating with their purported mother, describing the types of sexual activity he desired, and traveling to their purported residence. With no Alabama case law addressing the issue, the State argued that the Court should rely upon a recent Georgia Supreme Court case to affirm the jury's guilty verdict. The Court



Division Staff

Bjurberg, P. David *
Blackmon, Sandra
Brendle, Cecil G.
Clemens, Suzanne
Cuthbert, Laura Irby
Daniel, Tracy M.
Davis, John J.
Dean, Michael G.
Dill, William D.
Dodd, Stephen N.
Eddings, Lynne
Givner, Jewel M.
Jordan, Audrey
Leverette, Tommy
Lewis, Madeline Hinson
Little, William D.
McCullough, Patricia P.
Miller, Teresa H.
Nunnelley, Michael A.
Plott, Sharon A.
Poe, Beth Slate
Poole, Andy S.
Porter, John M.
Prude, James B.
Saxon, Yvonne H.
Scales, Robin Blevins
Starrett, Marc A.
Stephens, Ferris W.
Taylor, Jo Ann
Therkelson, Jean A.
Wilkerson, Kristi O.
Willis, Jack W.

*Chief

Quick Facts:

Impact on Alabama: All 67 counties
Represents the State in all non-death penalty criminal cases
and civil forfeitures arising from drug and alcohol prosecutions

1416 cases worked on or presented in court
79 extradition requests handled

96% affirmance rate in Court of Criminal Appeals
97% affirmance rate in Alabama Supreme Court



Criminal Appeals

agreed, citing the Georgia court's observation that "one particularly effective way to persuade or entice a person to do something is to enlist the help of a trusted relative, friend, or associate." The State was represented by Assistant Attorney General Tracy Daniel.

As another matter of first impression, the Court of Criminal Appeals reviewed the method of authenticating electronic mail for admission into evidence in **Culp v. State**, No. CR-13-1039, 2014 WL 6608543, at *1 (Ala. Crim. App. Nov. 21, 2014). In affirming the defendant's domestic violence conviction, the Court held that his photograph, screen name, initials, and other identifying characteristics within the emails sent to the victim were sufficient to support their admission. The State was represented by Assistant Attorney General Michael Dean.

In affirming the defendant's rape conviction in **Ex parte Ware**, No. 1100963, 2014 WL 210106 (Ala. Jan. 17, 2014), *cert. denied*, **Ware v. Alabama**, No. 13-9754, 2014 WL 210106 (U.S. Jun. 23, 2014), the Alabama Supreme Court agreed with the State that there was no Confrontation Clause violation in the trial court's admission of evidence of DNA analysis conducted by laboratory technicians who did not testify at trial. The State was represented by former Solicitor General John Neiman, current Solicitor General Andrew Brasher, and Assistant Attorney General Bill Little.

The State successfully demonstrated the error in the trial court's suppression of marijuana seized from the defendant's automobile in **State v. Knox**, CR-12-2019, 2014 WL 1744095 (Ala. Crim. App. May 2, 2014). The Court agreed with the State that the defendant's discussion with the police officer after the conclusion of his traffic stop was consensual, and that no reasonable suspicion was required to support the subsequent canine search of the vehicle at the roadside. After the police dog's actions indicated the presence of drugs, probable cause existed to support the warrantless search of the vehicle and resulting seizure of marijuana found inside it. Assistant Attorney General Laura Cuthbert represented the State.

In **State v. Clayton**, No. 1130012, 2014 WL 1328302 (Ala. Apr. 4, 2014), the Alabama Supreme Court held that, after firefighters observed an inactive methamphetamine lab inside an apartment and alerted the police, the police possessed probable cause to search the apartment; it reversed the Court of Criminal Appeals's decision that had upheld the trial court's suppression of evidence from the search. The Court specifically noted the public safety concerns arising from methamphetamine production. The State was represented by former Solicitor General John Neiman and Assistant Attorney General Michael Dean.

As it affirmed the defendant's felony murder conviction in **Brown v. State**, CR-13-0083, 2014 WL 4957732 (Ala. Crim. App. Oct. 3, 2014), the Court of Criminal Appeals agreed with the State that a recording of the defendant's telephone call made from jail was properly authenticated by the testimony of officers who were able to identify the defendant's voice. One officer could identify the defendant's voice because he had taken an oral statement from him, while another officer testified that the same voice was recorded on all calls using the defendant's PIN number; thus, as the State argued, there was no error in the admission of the evidence. Assistant Attorney General Ferris Stephens represented the State.

The State successfully argued for the reversal of the trial court's dismissal of the defendant's indictment for impersonating a peace officer in **State v. Baker**, No. CR-13-0142, 2014 WL 6608349 (Ala. Crim. App. Nov. 21, 2014). The Court of Criminal Appeals agreed with the State that the defendant's indictment adequately charged him with the offense and that the statute prohibiting that conduct is not unconstitutionally vague. The defendant's acts of representing himself to be a deputy sheriff, including his donning of a deputy sheriff's shirt and duty belt, fell within the acts prohibited by the statute as properly alleged by his indictment. Assistant Attorney General Robin Scales represented the State.

Service to the State and the Bar

Yvonne Saxon served on the Board of Directors for Legal Services Alabama, the Unauthorized Practice of Law Committee, and the In-House Counsel Task Force for the Alabama State Bar.

Tommy Leverette served on the Alabama Supreme Court's Standing Committee on the Rules of Criminal Procedure.

Michael Dean represented the Attorney General's Office on the Sentencing Commission and provided law updates for the Alabama District Attorneys Association and the Attorney General's Law Enforcement Summit.

Marc Starrett served on the Board of Editors of *The Alabama Lawyer*, the Alabama State Bar's bimonthly journal, and reviewed criminal law decisions for the journal's "Appellate Corner" feature. Marc gave a continuing legal education presentation to the DeKalb County Bar Association regarding the preservation of trial court error.



Criminal Trials

The Criminal Trials Division prosecutes cases in courts throughout the State of Alabama. Most of the cases are violent crimes, but the division also prosecutes thefts from private businesses and other white collar crimes. Generally, the division prosecutes crimes when district attorneys or law enforcement request assistance, have conflicts, or do not have the resources to prosecute complex cases. The Criminal Trials Division is also responsible for prosecuting illegal gambling and pursuing gambling forfeiture actions.

Key Cases

State v. Tracey Grissom - On August 7, 2014, Tracey Grissom was found guilty of Murder by a Tuscaloosa County jury after a three-day trial. During the trial, the Criminal Trials Division presented evidence that Grissom went to the 43 Boat Landing in Tuscaloosa on May 15, 2012 and shot her ex-husband, Hunter Grissom, four times, two of which were in the back. Although it was undisputed that she had shot him, she attempted to defend the shooting by claiming that she had killed him in self-defense. Her claim of self-defense was based on her allegations that the victim had raped, sodomized, and knocked her unconscious for several hours eighteen months before the shooting. The State was able to completely impeach her credibility, and therefore the credibility of her allegations, by introducing phone records showing multiple text messages were sent from her

phone during the time she claimed to be unconscious. Additionally, the State also presented evidence that the defendant intended to cash in on an insurance policy worth more than \$100,000 that she maintained on the victim. On September 2, 2014, the defendant was sentenced to 25 years in prison.

State v. Rodney Stallings - On November 4, 2014, Rodney Stallings, a former Tuscaloosa County attorney, was found guilty of Theft of Property in the 1st Degree after a two-day trial in Cherokee County. During the trial, the Criminal Trials Division presented evidence that between 2006 and 2012 Stallings stole \$328,246 from the State of Alabama Fair Trial Tax Fund by intentionally filing 246 false fee declarations for indigent defense cases in which he was not entitled to receive payment. Stallings never appeared as counsel in some of the cases, and in others he made up case numbers as well as defendants. Stallings faces a potential sentence of 2 to 20 years for the class B felony, and he will be sentenced on January 5, 2015.

State v. Janice Green - On December 5, 2014, Janice Green was found guilty of Attempted Murder after a week-long trial in Perry County. During the trial, the Criminal Trials Division presented evidence that during an investigation into a plot to kill a 4th Judicial Circuit Judge and a Special Agent from the Alabama Attorney General's Office, law enforcement executed a search warrant on Green's house for a high-powered, scoped rifle. During the execution of the search warrant, Green fired a shot at the Tactical Team with a high-powered, scoped rifle. Further evidence showed that Green stated after her arrest that, "If I knew how to work that gun, I would have shot ya'll up." Green was also precluded from possessing a firearm because of a prior federal conviction (for which she is

Division Staff

Arnold, Lori B.
Arrington, Andrew D.
Billingslea, Stephanie C.*
Godwin, Kelly H.
Gwathney, Leigh
Hensley, John C.
Hunter, Eric W.
Jones, Ternisha M.
Kachelman, John L.
Kennedy, Catherine L.
Rutter, James H.
Tornow, Amber L.

*Chief

Quick Facts:

160 cases actively working
59 cases worked on and/or presented in court
14 Indictments
33 Pleas
10 Trials



Criminal Trials

already serving a federal sentence). Green faces a potential sentence of 20 years to life for committing the Class A felony with a firearm, and she will be sentenced in January 2015.

State v. James Leon Windham - On November 6, 2014, James Leon Windham, an Evergreen man, was found guilty of Interference with Custody of a Child after a two-day trial in Conecuh County. During the trial, the Criminal Trials Division presented evidence that Windham had a confrontation with the father of two children, ages 9 and 5, at the father's workplace, a local animal shelter. Windham was angry because he thought the children's father was involved in Windham's wife losing her job at the shelter. After the confrontation, Windham took the two children without their father's permission, drove them away in his car, and told them that he was taking them to get new parents. When Windham realized the father was following, he took the children to their mother's workplace and gave them to her. He then went to the Department of Human Resources and claimed he had taken the children because their father had abandoned them. The father was the custodial parent, with full custody of the children. On December 5, 2014, Windham was sentenced to 3 years in prison, which was suspended, and he was placed on 5 years of probation.

State v. Robert Lorenzo Anderson - On April 23, 2014, Robert Lorenzo Anderson was found guilty of two counts of Attempted Murder and two counts of Menacing in the Russell County Circuit Court. The crimes occurred on July 25, 2013, when Phenix City police officers responded to a 911 call reporting gunfire at the Riverview Apartments. While officers searched an apartment where a suspect had been seen, Anderson jumped out of a second-floor window and fled. As officers pursued Anderson, Anderson pointed a pistol at them and fired. After an Officer reported the shooting over the police radio, additional law enforcement officers arrived at the scene to help. A building inspector, who was also a sworn law enforcement officer, arrived, and Anderson shot at him when he rounded the corner of one of the apartment buildings. Shortly thereafter, an Investigator of the Russell County District Attorney's Office saw Anderson running across a street. Anderson pointed his pistol at the investigator's vehicle as if to shoot, but he ran away when the Investigator fired at him. The Investigator then pulled his vehicle alongside Anderson, who again pointed his gun at the vehicle. The investigator fired again, this time hitting Anderson in the leg, and Anderson was then apprehended. Anderson was sentenced to 35 years for each of the counts of attempted murder and six months for each of the two counts of menacing.

State v. Shaun Thomas - On April 24, 2014,

Shaun Thomas, of Birmingham, was convicted of Assault in the 3rd Degree in Jefferson County Circuit Court. During trial, the Criminal Trials division presented evidence through multiple witnesses that Thomas assaulted another shopper during the Black Friday sales event at the Bessemer Wal-Mart on November 24, 2011. Thomas, who was detained on federal charges as well, was sentenced to 12 months in the Jefferson County jail to be served once his federal sentence is completed. He was also ordered to pay restitution and fines.

State v. Roland Gilbert Campos, III - On June 11, 2014, Roland Gilbert Campos III, of New Market, was found guilty by a jury of two counts of Sexual Abuse in the 1st Degree of a child aged less than 12 years and two counts of Sodomy in the 1st Degree in Madison County Circuit Court. During a three-day trial, the Criminal Trials Division presented substantial evidence, including a detailed interview with the victim, about repeated crimes of sexual abuse and sodomy that occurred in 2012. Campos had been dating the victim's mother, and he admitted during testimony that the child was usually truthful and that he had been with her on the times in question. Campos was sentenced to life without parole for sodomy and 20 years' imprisonment for the additional sex crimes against the five-year-old child.

U.S. v. Myron Tubbs - On July 8, 2014, Myron Tubbs, a Perry County man, was found guilty of providing a felon with a firearm in the Federal District Court of Alabama (Northern Division). During the trial, the Criminal Trials Division presented evidence that Tubbs purchased a Remington 7mm rifle from the Academy Sports and Outdoors in Tuscaloosa for a convicted felon. That felon, Janice Green, used this rifle provided by Tubbs to fire on an Alabama State Trooper SWAT team as they attempted to take her into custody for outstanding state charges of Conspiracy to Murder a Circuit Judge and a Special Agent of the Attorney General's Office. Tubbs was sentenced to 16 months in Federal Prison, which will run consecutive to any State sentence with no credit for time served.

State v. Thomas Lake - On May 7, 2014, Thomas Lake, of Alabaster, was found guilty in Shelby County District Court. via bench trial of Violation of a Protective Order Due to his previous domestic violence and assault convictions, Lake was ordered by the Court to stay away from the victim in the case. However, Lake violated that order which resulted in him being charged with Violation of a Protective Order. Lake was sentenced to 90 days in the Shelby County jail.

State v. Derrick Addison - On October 23, 2014, the Criminal Trials Division presented evidence to a Montgomery County jury to absolve Assistant District Attorney, Katie Langler, of claims of alleged prosecutorial



Criminal Trials

misconduct. The Court of Criminal Appeals had mandated that this issue be placed before a jury after Derrick Addison appealed his conviction in a second trial for Theft of Property in the 3rd Degree and claimed that he should not have been retried because of double jeopardy. During Addison's first trial, he claims that the District Attorney intentionally goaded him into asking for a mistrial by asking a witness, "What did Derrick Addison tell you about the steel?" To this question the witness replied that Derrick Addison told her that he had other charges. As a result of this unexpected answer from the witness, the Defendant moved for a mistrial and the court granted it on the basis that the witness's response was improper character evidence against the defendant. It was during his retrial that Addison was convicted of Theft of Property in the Third Degree that gave rise to his appeal and this subsequent corollary trial on prosecutorial misconduct. After hearing all of the evidence presented by the Criminal Trials Division, the jury found that the Assistant District Attorney did not intentionally goad the defendant into a mistrial or act in any improper manner.

Plea Agreements

- **State v. Lonnie Bailey (Lawrence County)** – Murder; 20 years in prison
- **State v. Chadmon Drew Wright (Colbert County)** – Unlawful Possession of Obscene Material (3 counts), Sexual Abuse of a Child Under 12, Sexual Abuse in the 1st Degree (2 counts) and Sodomy in the 1st Degree; 20 years in prison and all electronics and images produced with child pornography will be destroyed
- **State v. Timothy Jordan (Covington County)** – Burglary in 3rd Degree; 15 years in prison and \$1,820 in restitution to the victim
- **State v. Meagan Williams (Jefferson County)** – Theft of Property in 3rd Degree; 1 year in jail (suspended) and \$6,879.56 in restitution to the victim
- **State v. Jerry Billingsley (Baldwin County)** – Theft of Property in the 1st Degree; 10 years in prison, split to serve 2 years
- **State v. Jason Aspinwall (Baldwin County)** – Theft of Property in 1st Degree; 2 years in prison (suspended) and \$6,100 in restitution to the victim (BP case)
- **State v. Douglas Kerr (Baldwin County)** – Theft of Property in 1st Degree; 3 years in prison (suspended) and \$11,000 in restitution to the victim (BP case)
- **State v. Brandy Strong (Mobile County)** – Attempted Theft of Property in 1st Degree; 1 year and 1 day imprisonment (suspended) (BP case)
- **State v. Germain Rodriguez (Blount County)** – Domestic Violence in the 3rd Degree and Assault in the 3rd Degree; 2 years' probation and sex counseling and alcohol treatment
- **State v. Erica Johnson (Jefferson County)** – Theft of Property in the 1st Degree; 32 months in prison (suspended) with 5 years' supervised probation and more than \$330,000 in restitution to the victims
- **State v. LaShondra Moore (Coffee County)** – Theft of Property in the 1st Degree; 32 months in prison (suspended) with 5 years' probation and more than \$10,000 in restitution to the victims
- **State v. Rick Dunta Johnson (Walker County)** – Unlawful Possession of a Controlled Substance; 5 years in prison, split to serve 2 years
- **State v. Richard Conway Dobbins (Walker County)** – Unlawful Production of Obscene Matter; 20 years in prison and Dobbins must register as a sex offender and provide DNA sample
- **State v. Derrick Andrew Bell (Tuscaloosa County)** – Theft of Property in the 2nd Degree; 4 years in prison (suspended) and restitution to the victim
- **State v. Shawn McClure (Madison County)** – Receiving Stolen Property in 2nd Degree; 46 months in prison (suspended) and \$800 in restitution to the victim
- **State v. Brandon Hill (Shelby County)** – Burglary in the 3rd Degree and Robbery in the 2nd Degree; 10 years in prison, split to serve 18 months and all restitution to the victim
- **State v. Gerald Wayne Grace (Walker County)** – Harassment; 30 days in jail (suspended) and \$61,000 in restitution to the victim
- **State v. Vincent Vaughn, Sr. (Lee County)** – Negotiating Worthless Instrument (9 counts); 1 year in jail (suspended) and \$1,416 in restitution to the victim
- **State v. Charlette Henderson (Mobile County)** – Residential Mortgage Fraud; 48 months in prison (suspended) and \$2,093 in restitution to the victim
- **State v. Lanikein Henderson (Mobile County)** – Residential Mortgage Fraud; 24 months in prison (suspended) and \$2,093 in restitution to the victim
- **State v. Marvin Terrell Brifford (Tuscaloosa County)** – Burglary in the 3rd Degree; 10 years in prison split to serve 24 months



Executive

The Executive Division encompasses the executive staff, including the Attorney General, Chief Deputy Attorney General, the Solicitor General and Assistant Solicitor General, as well as Constituent Affairs, Press Office, Legislative Affairs, Law Enforcement Coordinator, Litigation Support, and Victim Services. The Chief Deputy Attorney General coordinates and manages all legal staff and keeps informed of the daily legal and administrative matters throughout the office. The entire division works to keep the Attorney General updated on the many legal matters being handled by the office and to ensure that he has every resource when making a decision.

Solicitor General

The Solicitor General's section oversees the Attorney General's appeals to the Supreme Court of the United States, the Federal Courts of Appeal, the Alabama Supreme Court, and other appellate courts.

Constituent Affairs

Constituent Affairs works in conjunction with our public hotline to assist with written inquiries, comments, and complaints from the general public, as well as local, state, and federal public officials and governmental agencies. Although no private advice may be given, the matters are researched and direction is given as to where resolutions might be reached. Over the course of one year, approximately 3,000 email and 500 standard mail inquiries were received and handled on behalf of the Attorney General.

Press Office

The Press Office is responsible for responding to press inquiries, issuing news releases, interfacing with the news media, handling other matters regarding news media, and maintaining the relationship between the Attorney General and the people of Alabama.

Legislative Affairs

Legislative Affairs drafts and coordinates the Attorney General's legislative agenda. As the primary advocate for the Office to the Alabama Legislature, Legislative Affairs manages the Attorney General's legislative agenda as it moves through the lawmaking process. The highest legislative priority each session is to ensure the funding needs for the Office are met. Other legislative responsibilities include monitoring proposed legislation creating new crimes or modifying penalties for existing crimes, promoting legislation that

strengthens and supports law enforcement's ability to perform its duties, and educating legislators on potential state and federal constitutional violations arising from proposed legislation.

Legislative Affairs also works closely with the Attorney General's Law Enforcement Coordinator to ensure passage of pro-law enforcement legislation. Together, they keep the law enforcement community abreast of proposed legislation and its potential impact on the duties and responsibilities of law enforcement officers. In addition, they work in conjunction with the Attorney General's Law Enforcement Advisory Committee (LEAC) to address concerns prevalent among law enforcement officers resulting from proposed legislation.

Law Enforcement Coordinator

The Attorney General's Law Enforcement Coordinator, Louis Zook, works closely with Legislative Affairs to ensure passage of pro-law enforcement legislation and to keep the law enforcement community abreast of proposed legislation pertaining to them. His primary responsibility is acting as liaison between state law enforcement officers and the Attorney General's office. The Law Enforcement Coordinator also organizes the annual Law Enforcement Summit, assists families and agencies that have lost officers in the line of duty, and attends conferences and meetings related to law enforcement when the Attorney General is unable to attend. Louis Zook was honored by the Alabama Association of Chiefs of Police (AACOP) with its prestigious Chief Bill Waites Memorial Award. Zook was recognized at the Association's 2013 Summer Meeting for his dedicated career of outstanding public service.

Litigation Support

The Litigation Support section oversees the Office of the Attorney General's Litigation Support and eDiscovery functions and services. This is the office's main point of contact for internal training and requests related to eDiscovery platforms and other tools used internally for litigation. Litigation Support provides ongoing advice to ensure that litigation support platforms and tools meet the needs of the office.



Solicitor General Highlights

The Solicitor General's section supervised and litigated numerous important cases in 2014. These included:

U.S. Supreme Court

In the Supreme Court of the United States, the section litigated three cases on the merits. In an important First Amendment case, the section successfully persuaded the Court to adopt a broad rule protecting the free speech rights of state employees while protecting a state supervisor from personal liability because the law was not yet clear. In another merits case, the section defended against constitutional challenges to the State's new legislative districts, which the Legislature adopted after the 2010 census. Finally, the section successfully persuaded the Court to grant certiorari and litigated on the merits a challenge to the State's taxation of railroad diesel fuel under the 4-R Act. The section received a "best brief award" from the National Association of Attorneys General for one of its merits briefs.

The section also filed or joined a number of amicus briefs supporting parties in other cases in the Supreme Court and successfully opposed certiorari in many cases in which Alabama or its officers were parties. These include a number of death penalty cases and a constitutional challenge to Alabama's property tax system.

Alabama Supreme Court

The section briefed several cases before the Alabama Supreme Court and supervised the filing of numerous petitions for certiorari and related briefs. The section also presented oral argument about the constitutionality of imposing life-without-parole sentences on juvenile murderers. The section's work this year includes briefing a gambling-related case arising from Houston County in which the Court announced, finally and definitively, that so-called "electronic bingo" is illegal under Alabama state law.

Federal Appellate Courts

The section's attorneys briefed and argued several criminal matters in the federal appellate courts, including death penalty and life-without-parole cases. They also briefed and won a Voting Rights Act challenge to the State's uniform enforcement of illegal gambling laws. The section's attorneys briefed the State's appeal over gambling activities conducted by the Poarch Band of Creek Indians, and they will orally

argue the case in January 2015. The section also filed several amicus briefs in the federal courts of appeals in support of the Second Amendment right to bear arms and an amicus brief in the Eleventh Circuit supporting the First Amendment rights of religious employers.

Trial Courts and Non-Litigation

The section also supervised some of the State's most important work in the trial courts. The section assisted with the State's defense of an important abortion-related law that requires abortion doctors to obtain privileges to care for patients in local hospitals when complications arise. The section also supervised the State's defense of traditional man-woman marriage in numerous lawsuits in all of Alabama's federal district courts. Finally, the section organized two 7-hour continuing legal education programs for lawyers in the Attorney General's Office and other state agencies.



Division Staff

Brasher, Andrew L.
Davis, Rosa H.
Guthrie, Karen L.
Haynes, Claire B.
Killough, Lindsey
Kirkpatrick, Megan A.
Lewis, Michael
Maze, Corey L.
McLure, Sandra M.
Patterson, E. Joy
Strange, Luther J. *
Swain, Lucie
Thornton, Stephanie M.
Turner, Kevin L.
Zook, Louis G.

*Chief



General Civil & Administrative Law

The General Civil Litigation and Administrative Law Division represents the State in all courts and before administrative boards as both initiator and defender of civil actions. The range of civil matters handled by this division includes prisoner litigation, representation in administrative hearings, and contracts and related commercial transactions. In addition, this division has four areas of specialization: (1) Consumer Protection responds to public complaints regarding consumer transactions; (2) Antitrust analyzes issues arising under federal antitrust statutes, primarily the Sherman Act and the Clayton Act; (3) Environmental litigates state environmental laws regarding pollution, illegal hazardous waste, and other dangerous environmental concerns; and (4) Utilities advocates on behalf of the citizens of Alabama in all matters affecting utility services before the Alabama Public Service Commission.

The Attorney General is responsible for all state agency litigation matters. There are approximately 150 of these agencies, boards, and commissions falling under the purview of the Attorney General. Numerous larger agencies retain their own legal departments with attorneys appointed by the Attorney General; however, many of the boards and commissions are small and may not be able to afford their own legal department or full-time attorney. These state entities must therefore rely on the Office of the Attorney General for legal representation. The General Civil and Administrative Law Division provides legal representation for 80 of these agencies, boards, and commissions. Attorneys in this division act as “general counsel” for the regulatory boards and review, prepare, and prosecute allegations against licensees accused of violating the various practice acts.

Boards & Agencies Represented

Accountancy, Board of
Architects
Archives and History
Armory Commission
Arts and Humanities, Council on
Assisted Living Administrators
Alabama Board of Athletic Trainers
Athletic Trainers Commission
Auditor
Boilers and Pressure Vessels
Building Commission
Building Finance Authority
Chemical Testing and Training
Children's Affairs
Children's Trust Fund
Consumer's Utility Rate Hearing Fund
Contract Review Committee
Court Reporters' Board
Cosmetology, Board of
Counseling, Board of Examiners of
Criminal Justice Information Center
Dental Scholarship Board
Dietetics Board
Dry Cleaning Environmental Response
Educational Television
Electronic Security Licensure
Elevator Safety Review Board

Engineers and Land Surveyors
Environmental Mgt. Commission
Examiners of Public Accounts
Farmers Market Authority
Foresters, Board of Registration
Funeral Directors Board
Geologist, Board for Licensure
Governor's Mansion Authority
Hearing Instrument Dealers Board
Heating and Air Conditioning
High School Athletic Association
Historic Blakely Authority
Historic Iron Works Commission
Historical Commission
Indian Affairs
International Airport Authority
Interpreters Commission
Interior Design Coalition
Labor Board
Landscape Architects
Library Services
Lt. Governor's Office
Liquefied Petroleum Gas Board
Manufactured Housing Commission
Marriage & Family Therapy
Massage Therapy Board
Military Department

Motor Sports Hall of Fame
Multiple Needs Child Office
Music Hall of Fame
Nursing Home Administrators Board
Nutrition Board
Occupational Therapy Board
Onsite Wastewater
Peace Officers Benefit & Annuity Fund
Peace Officers Standards and Training
Physical Fitness Commission
Physical Therapy Board
Plumbers & Gas Fitters
Podiatry, Board of
Polygraph Examiners Board
Records Commission
Registrars
Respiratory Therapy
Safety Coordinating Committee
Sickle Cell Commission
Social Worker Examiners
Soil & Water Conservation Committee
Space and Rocket Center
Speech Pathology and Audiology
St. Stephens Historical Society
Tourism and Travel
Veterinary Medical Examiners, Board of

Quick Facts:

Impact on Alabama:
1,184 Cases worked on and/or presented in court
400 Administrative hearings
42 Cases worked on and/or presented in court



General Civil & Administrative Law

Antitrust

The General Civil and Administrative Law Division examines issues arising under the federal antitrust statutes, primarily the Sherman Act and the Clayton Act. These issues involve everything from market division, price-fixing, and bid-rigging to refusals to deal and other monopolistic, collusive behaviors. This division investigates these issues, often with cooperation from other state and federal agencies, any time Alabama's free market competitive landscape may be negatively impacted. We also conduct merger review and analysis in order to protect Alabama's competitive markets.

Environmental

The Civil Division also represents the State of Alabama on a variety of complex environmental issues before the state and federal courts and numerous state and federal governmental agencies. The Civil Division litigates on behalf of the State to enforce environmental laws, while preventing and abating pollution of state waters, land, and air. The division is actively engaged in litigation to enforce compliance with the provisions of the Alabama Water Pollution Control Act. The division also works closely with and/or represents various state environmental regulatory boards and agencies, including the Alabama Department of Conservation and Natural Resources, the Alabama Department of Environmental Management, and the Alabama Environmental Management Commission

Utilities

This section of the Civil Division is primarily tasked with advocating on behalf of consumers before the Alabama Public Service Commission and representing the Attorney General in all utility proceedings before that regulatory body. The Attorney General is the primary representative for residential consumers in matters regarding rate and service issues with water, wastewater, natural gas, and electric companies that affect the public interest.

Most notably, the Utilities section of the Attorney General's Office advocated on behalf of consumers in hearings by the Public Service Commission regarding the further extension and modification of the RSE (Rate Stabilization and Equalization) mechanism for Alabama Gas, Alabama Power, and Mobile Gas. Modifications were made to each RSE regulatory mechanism, including a reduction in the rate of return on retail common equity, bringing the return on equity in line with current economic conditions.

Consumer Protection

The Consumer Protection section provides consumer education, processes consumer complaints, and mediates retail-based disputes between consumers and businesses. When mediation is unsuccessful or justice demands further action, the section may initiate Deceptive Trade Practices Act (DTPA) civil litigation seeking injunctive relief, civil penalties, and monetary damages for affected consumers. DTPA prosecutions may be conducted independently within Alabama or in concert with Consumer Protection offices in other states. In cases of egregious consumer abuse, criminal charges may be brought to protect the rights of consumers.

This section is composed of highly skilled and uniquely trained consumer litigators and extremely dedicated public protection specialists who travel the state educating the public and promoting the rights of Alabama consumers. Section attorneys manage all court proceedings, while the public protection specialists process complaints and assist with consumer awareness events. These specialists set up displays and spoke at over 30 events in 2014, notably the Maynor Mitchell Senior Expo in Huntsville, with over 5,000 attendees, and the Alabama League of Municipalities in Montgomery, with over 1,000 attendees.

Other section responsibilities include the regulation of charitable organizations, health studios, professional fundraisers, professional solicitors, commercial co-ventures, and telemarketing companies. A Consumer Protection hotline is also maintained where consumers may call to report scams, obtain consumer advice, or report price gouging during a state of emergency. For all non-consumer related inquiries, the section employs a legal research assistant to maintain a Public Hotline to answer general questions about Alabama law, direct individuals to sections within the Alabama Code, and recommend state agencies that may be of assistance to them. Specialists are not, however, able to dispense personal legal advice.



General Civil & Administrative Law



Division Staff

Albritton, Benjamin H.
Armstrong, Barbara A.
Acheson, Angela F.
Ausborn, Melissa
Barber, Rhonda L.
Barnes, Noel S.
Beckman, Kyle A.
Bledsoe, J. Matt
Carmack, Bettie J.
Cook, Mandy
Ezell, JaChala C.
Gannt, Sam
Garrett, Billington *
Goldthwaite, Mary A.
Harper, Sandra D.
Hoffman, Helen B.
Hughes, Todd E.
Johnson, Josephine M.**
Johnson, Mary A.
Leonard, Ellen R.
Long, Jeffery H.
Martin, Olivia W.
McEwen, T. Cameron
Mitchell, Michael
Nichols, Emily A.
Sheehan, Elizabeth U.
Sheeler, Monica
Smith, Allegra
Tambling, Robert D.
Wallace, Jack W.
Whyard, Rene A.

*Chief

**In Remembrance

Key Cases

ThompsonGas DTPA Settlement - Attorney General Strange entered into a \$500,000 Deceptive Trade Practices Act "DTPA" settlement with ThompsonGas-Smokies concerning their deceptive billing practices that affected approximately 2,000 Alabama customers who were billed an improper non-usage fee ranging from \$192.80 to \$706.80. These customers had varying contracts that did not necessarily provide for the charging of such fees. The settlement provided full refunds to Alabama consumers and measures to prevent recurrence of the alleged violations, as well as reimbursement of the Attorney General's investigative costs and attorneys' fees.

Corporate Records Service DTPA Settlement - Attorney General Strange entered into a settlement with the Mandatory Poster Agency d/b/a Corporate Records Service concerning its deceptive direct mail marketing campaign, which sent solicitations to small business throughout Alabama. Corporate Records Service's solicitations referenced several Alabama statutes and claimed its services satisfied the corporate records requirements of those statutes. After an extensive investigation by the Attorney General's Consumer Litigation section, evidence showed that Corporate Records Service solicitations were misleading and failed to satisfy all of the corporate record requirements referenced in the solicitations. In addition, its solicitations created confusion by causing businesses to believe that the solicitations were actually invoices mailed from a



General Civil & Administrative Law

government agency and that payment was required by Alabama law. The settlement provided a refund plan for all 461 affected Alabama businesses, measures to prevent recurrence of the alleged violations, and reimbursement of the Attorney General's investigative costs and attorneys' fees.

Festiva DTPA Settlement - Attorney General Strange entered into a \$100,000 settlement with Festiva Development Group concerning the deceptive business practices of its timeshare and travel club operations. The settlement called for a refund of approximately \$467 to over 100 Festiva Vacation Club members who either complained to the Attorney General's Office or responded to a consumer survey. The settlement requires Festiva to adhere to strict marketing rules when it conducts business in Alabama and provides compensation for the Attorney General's investigative costs and attorneys' fees.

Robert Blair Criminal Prosecution - Attorney General Strange secured the conviction of former Alabama attorney, Robert Roland Blair, for Theft of Property in the Second Degree, a Class B felony. The action was a joint prosecution between the Attorney General's Consumer Litigation section and Criminal Trials Division. The conviction arose from Blair's representation of a client who was injured in a vehicle accident in Selma, Alabama. Without proper authority from his client, Blair settled the case for \$25,000. He deposited a check with the client's forged signature and spent the money for his personal use while his client was in a rehabilitation center recovering from her injuries. Blair was ordered to reimburse the State Bar, which had paid the full amount of the settlement to Blair's client following a Bar complaint. Blair, 62, now of Louisiana, was sentenced to 24 months, which was suspended for a term of 24 months probation. Blair previously was suspended by the Alabama State Bar Association and no longer is a practicing attorney.

GlaxoSmithKline Advair, Paxil, and Wellbutrin DTPA Settlement - Attorney General Strange participated in a \$105 million multistate settlement with GlaxoSmithKline, LLC concerning the deceptive marketing, advertising, and promotion of Advair® (asthma drug) as well as Paxil® and Wellbutrin® (anti-depressant drugs). The settlement brought Alabama \$1,815,346.69 and restricts GlaxoSmithKline from misrepresenting the uses and qualities of these drugs in its marketing campaigns.

Pfizer Rapamune DTPA Settlement - Attorney General Strange participated in a \$35 million

multistate settlement with Pfizer, Inc., the parent company of Wyeth Pharmaceuticals, Inc., concerning Wyeth's deceptive marketing, advertising, and promotion of Rapamune, an immunosuppressive drug currently approved by the FDA as a prophylactic for organ rejection after kidney transplant surgery. The settlement brought Alabama \$629,718.89 and restricts Wyeth from making the following representations: (1) the unapproved use of Rapamune following an organ transplant other than a kidney transplant; (2) the unapproved protocol of converting patients to Rapamune after initially receiving a different immunosuppressive drug; and (3) using Rapamune in unapproved drug combinations.



Investigations

The Investigations Division of the Attorney General's Office investigates a variety of criminal matters, such as white-collar crime, "cold" cases involving unsolved homicides and rapes, and many other violent crimes. Additionally, the Investigations Division has served as the lead investigative agency in the state for illegal gambling investigations.

The Mission of the Investigations Division is to conduct investigations fairly and impartially, while reporting findings accurately and completely. The division handles many of these investigations independently, but some are conducted in collaboration with other local, state, and federal law enforcement agencies. The division also has an investigator assigned full-time to an anti-drug task force.

Territory and Jurisdiction

Investigations by this division are conducted throughout the State of Alabama. Some cases require investigations to be carried out in other states and even internationally.

Investigative Highlights

- Investigation conducted in Tuscaloosa County, AL, which led to the conviction of a woman for the murder of her ex-husband. The case was featured on the CBS Television Program "48 Hours".
- Investigation conducted which led to the capital murder indictment of an individual in Baldwin County, AL. This case has been featured on the ABC News Program "20/20".
- Cold Case investigation of an individual in Jefferson County, AL, which led to his conviction on charges of first degree kidnapping, rape, sodomy, robbery, and attempted murder charges.
- Investigation which led to the conviction in Centre, Cherokee County, AL, of an attorney who defrauded the State of Alabama by making false statements of fees and costs allegedly incurred in the representation of indigent defendants.
- Investigations continued in illegal gambling matters bringing the total number of machines and money seized to 4,954 and \$1,041,433, respectively since the initiative began in 2011.

Division Staff

Barnes, John W.	Seroyer, Jesse, Jr.
Butler, Byron	Sisson, Gene
Chandler, Jeffrey C.	Smith, Shawn
Fleming, Purvis L.	Smith, Susan A.
Frith, Jake	Spivey, Edwin B.
Fuhrman, Timothy J. *	Thomas, Jacqueline
Lambert, James E.	Windham, Richard G.
Lingle, Laura D.	*Chief
Perkins, Otis	
Pressley, Arlethea W.	
Regan, Charles E.	
Salvador, Eric	

Quick Facts:

Impact on AL: All **67** counties
16 special agents and **3** support staff
302 pending investigations
34 cases under indictment
69 new indictments in 2014



Medicaid Fraud Control Unit

The Alabama Medicaid Fraud Control Unit was established in 1978 as a branch of the Alabama Attorney General's Office. The unit receives 75% of its funding from the U.S. Department of Health and Human Services with the State contributing the remaining 25% in matching funds. The unit investigates and prosecutes allegations of fraud committed by Medicaid providers against the Alabama Medicaid Program. Additionally, the unit is also tasked with investigating and prosecuting accusations of abuse, neglect, and the financial exploitation of residents in long-term care facilities, such as nursing homes, that receive Medicaid funding. The unit is also authorized to pursue civil settlements in order to recover funds overpaid to Medicare providers that are not the subject of criminal activity.

Key Case

State of Alabama v. Jimmy White and William Britt Morris - This case was initiated after the MFCU received an anonymous complaint that White and Morris, dentists who owned practices in partnership in Butler and Grove Hill, Alabama, were billing the Alabama Medicaid Agency for dental services that had not been provided. White and Morris were both convicted of attempting to file a false claim with the Medicaid Agency and were placed on one and two years probation, respectively. In addition, Morris was banned from serving as a Medicaid provider for a period of five years, and White was permanently excluded. In addition, the MFCU collected almost \$400,000 in restitution for the Medicaid Agency, a record amount for a single case.



Unit Staff

Briscoe, Bobby J.
Brown-Edwards, Tracey
Davis, Patricia P.
Keeshan, Richard H.
Lieberman, Bruce M. *
Moody, Jon R.
Nelson, W. Desiree
Pinckard, Steve
Sambor, Darrell G.
Shockley, Gerald G.

*Chief

Quick Facts:

Impact on Alabama: 27 Counties
23 Open Fraud Cases
53 Open Abuse Cases
16 Indictments 8 convictions
\$18,320,785 recovered



Opinions

The Opinions Division provides written opinions on questions of law upon receipt of a written request from state departments, agencies, boards, and commissions, as well as authorized local public officials and local governmental entities. The Opinions Division also furnishes opinions to the Chairman of the Judiciary Committee of either legislative house whenever a matter is under consideration by the Committee.

Highlights

Because 2014 was an election year, the Opinions Division issued several opinions this year related to the election laws. See Opinions 2014-091, 2014-087, 2014-061, 2014-021, 2014-017, and 2014-012.

Opinion 2014-091, relating to ballot access by political parties, determined that a political party that obtains ballot access for county offices pursuant to section 17-6-22 of the Code of Alabama has established ballot access for all county offices, whether a district office within the county or a county-wide office, without the need for filing additional petitions.

Act 2013-283, otherwise known as the Gun Bill, was the subject of three other opinions issued during 2014. See Opinions 2014-074, 2014-049, and 2014-044. In Opinion 2014-044, the Baldwin County Board of Education sought guidance regarding whether Act 2013-283 modified or rescinded the requirements of section 16-1-24.1(a) of the Code of Alabama. This section of the Code requires local school boards to adopt a policy that prohibits all persons, other than authorized law enforcement personnel, from bringing or possessing any deadly weapon or dangerous instrument on school property. This Office determined that the Gun Bill did not modify or rescind the requirement to adopt such a policy.

In Opinion 2014-074, this Office determined that a county commission does not have the authority to prohibit firearms at all polling places. The opinion also stated that whether firearms may be prohibited in polling places depends on the nature of the location. Private property owners or their authorized representative may prohibit firearms on private property being utilized as a polling place.

The Alabama Department of Veterans Affairs is charged with administering the program known as the Alabama G.I. Dependents' Scholarships ("Program"). The Program provides free tuition, books, and instructional fees to qualified dependents of eligible disabled veterans at any state-supported institution of higher learning, college, or university. Act 2014-177 made amendments to the Program that resulted in a request for clarification as to whether out-of-state students should be considered in-state students and charged in-state tuition rates. The Attorney General determined in Opinion 2014-059 that eligible out-of-state participants under the Alabama G.I. Dependents Scholarships should be assessed in-state tuition and fees.



Division Staff

Baxley, Ben M.
Beeson, G. Ward
Gaines, Monet M.
Owens, Janice H.
Smith, Brenda F. *

*Chief

Quick Facts:

Impact on Alabama: Issued opinions to officials in **33** counties
158 Opinion requests received
98 Opinions issued
73 Election complaints received
23 Opinions to state departments and agencies
43 Opinions to county officials
32 Opinions to municipal officials



Special Prosecutions

The Special Prosecutions Division (“SPD”) was formed in 2012 by Attorney General Luther Strange as part of his ongoing commitment to fight public corruption. In 2014, SPD investigators and prosecutors continued to investigate and prosecute crimes involving the breach of public trust by public officials and employees. The division is comprised of four attorneys and five investigators who have many years of state and federal experience successfully prosecuting corruption and other complex criminal matters.

The prosecutors, investigators and support staff of the SPD form a team that works together from the initiation of an investigation until the completion of any resulting criminal case. The division conducts multiple long-term grand jury investigations that include the use of special grand juries. When appropriate, the SPD works together with local prosecutors and the United States Department of Justice to deter and prosecute crimes involving public corruption. The division operates in accordance with the highest standards of professionalism, accountability and impartiality.

Accomplishments 2014

- Indicted a current State Representative for 23 felony Ethics Law violations, including using his office for personal gain, voting for legislation with a conflict of interest, soliciting or receiving a thing of value from a lobbyist or principal, lobbying an executive department or agency for a fee, and using state equipment, materials, etc. for private gain.

Division Staff

Baker, Keith
Cayton, Donna L.
Coram, Thomas F.
Deneve, Esther
Duffy, Michael B.
Hart, M. Matt *
Lisenby, William A., Jr.
Means, Jennifer E.
Murray, James K.
Smyczek, Peter J.
Stuart, Rob

*Chief

- Convicted a state legislator of an Ethics violation which resulted in his resignation from office.
- Joined with agents and representatives of the United States Department of Education Office of Inspector General to successfully prosecute the former State Department of Education Director of Federal Programs and her husband for multiple Ethics violations, including using her office for personal gain relative to federal stimulus grant money.
- Convicted a former city official of a felony Ethics violation involving the misappropriation of over \$180,000.00 resulting in his incarceration.
- Convicted a former county employee of a felony Theft involving over \$150,000.00 in public money resulting in her incarceration.
- Convicted a county coroner for felony Ethics and Theft violations resulting in his incarceration.
- Convicted the former Chief of a Volunteer Fire Department for felony Ethics and Theft violations and the former Assistant Chief for felony Ethics violations resulting in their incarceration
- Partnered with the Alabama Department of Revenue to investigate and prosecute tax crimes, including obtaining the convictions of multiple public employees from various state and city entities for felony tax evasion.
- In conjunction with the Alabama Criminal Justice Information Center, convicted a former employee for improperly accessing confidential criminal history information.
- Indicted a former court employee for felony Ethics and Theft violations.
- Conducted multiple Grand Jury investigations in counties across the State.

AGSPA

The Special Prosecutions Division also leads a major cooperative initiative among state agencies to fight public corruption. The Attorney General’s Special Prosecutions Alliance (AGSPA) brings together partner agencies that work together and maximize resources in order to more effectively combat public corruption. The Chief of the Attorney General’s Special Prosecutions Division serves as the Director of AGSPA. Leadership representatives of the partner



Special Prosecutions

agencies comprise an advisory committee to advise the Attorney General on matters pertaining to public corruption and the maintenance of governmental integrity.

This year, AGSPA members worked to develop legislation to streamline investigations and provide law enforcement with the tools it needs to fight and deter public corruption. AGSPA also provides training and continued education seminars to better equip and prepare investigators and prosecutors for ever-evolving challenges in law enforcement.

State agencies who are partners in AGSPA include the Department of Examiners of Public Accounts, the Ethics Commission, the Department of Revenue, the Department of Public Safety, the Insurance Department, the Alabama Securities Commission, the Department of Economic and Community Affairs, the Office of Prosecution Services, and the Alabama Criminal Justice Information Center.



Quick Facts:

- 4 Indictments
- 15 convictions
- 12 pleas
- 4 Trials



Victim Assistance

The often lengthy journey through the criminal justice system can be incredibly stressful, especially for victims of violent crime. This is exactly why, on January 11, 1988, The Attorney General's Office of Victim Assistance (AGOVA) was created to assist victims of violent crime statewide. AGOVA provides victims and their families a place to turn before, during, and after their offender's sentencing.

Our goal is to assist victims in understanding the judicial process, advocate on their behalf, and maintain contact so they can remain informed about the case that has impacted their lives. Understanding their rights as proscribed by Alabama law is very important to victims of crime and their families.

AGOVA delivers direct victim assistance and referrals for victims through our toll-free hotline, 1-800-626-7676. Additional information can be found online by selecting the "Victim Assistance" link on our office website, www.ago.alabama.gov or www.victims.alabama.gov.

Since 2011, the chief of Victim Assistance, Patty DeBortoli, has served on the Implementation Task Force for the Alabama Crime Victims Automated Notification System (AlabamaCAN). The first phase of this system was released in October. Today, victims have the ability to log into the website and register to receive notification of parole hearings. The task force is continuing to work through the technical details to unite the multiple agencies that will further enhance this system. The Implementation Task Force has until December 31, 2015 to complete its charge.

Other Representation

Victim Services Officers from this section also attended regular meetings of the Domestic Violence Task Force, Human Trafficking Task Force, and Sexual Assault Response Team (SART).



AGOVA Staff

DeBortoli, Patty*
Hancock, Doris
Harbin, Ashley

*Chief

Quick Facts:

Impact on Alabama: All **67** Counties
1094 Phone calls & emails received from hotline
628 Victims assisted at Board of Pardons and Paroles hearings
2,396 Pardons and Paroles protested
2,602 Appeals screened



Administrative Services

The Administrative Services Division supports the mission of the office by providing all services needed to ensure the office runs as efficiently and effectively as possible. The whole division works as a team to address the various needs of our employees by providing and coordinating a wide range of services. The division is responsible for information technology, human resources, accounting and budgeting, payroll, accounts receivable, accounts payable, grants management, purchasing, property inventory, contracts and leases, mail services, records management, and various other support functions.

The division develops policies on an office-wide basis and is primarily responsible for ensuring such policies are uniformly applied and properly executed. The division is also responsible for addressing all items required by the Examiners of Public Accounts for purposes of the legal compliance audit performed every two years.

While technology has always been a vital function of the office as to maintaining our email and case management systems, the responsibilities

associated with this function have significantly increased. Over the last year, this section implemented an eDiscovery tool (Summation) to better assist the office in addressing both our response to discovery requests and our receipt of discovery from other parties. This system provides a dynamic tool to address cases with large volumes of data and gives a review platform that would not otherwise be possible. Our IT staff is to be commended for their efforts in implementing and supporting this new system. In particular, Alan Nummy, Angelique Pugh, and Keith Roberts spent endless hours to ensure this project was successfully implemented.

The IT Section has provided litigation support services to various trials this year. This required close coordination with our trial divisions to organize and load exhibits and to accompany prosecutors into the courtroom for presentations.

As for human resources, we have received positive feedback from recent employees regarding our new employee orientation program. Even employees who previously worked with other state agencies reported that our program provided them with more knowledge and insight as to their state employment and associated benefits. Shawn Missildine, Personnel Officer, initiated this orientation program and has continued to personalize each program to the needs of the participants.

The Accounting Section continues to address the various changes to statewide policies as dictated by the Comptroller's Office. Due to the efforts of Michael Bridges, Chief Accountant, the Section now has data downloaded on a daily basis for all office transactions. This is a great improvement due to the need for such timely information. Also, since the State of Alabama transitioned payroll into a paperless format and introduced a new employee web portal called eMAP, the Section has assisted employees in registering for eMAP. The eMap system gives each employee access their payroll and leave information from any computer with internet access.

Overall, the division continues to work with all employees to assist in any way possible. Our employees have one benefit over all other divisions; we actually know every employee by name and get to interact with them on a daily basis.



Division Staff

Bradford, Darrick	Monplaisir, Donald C.
Bridges, Michael S.	Nummy, J. Alan
Doucet, Charla G. *	Pugh, Angelique
Dyrendahl, Kimberly	Roberts, Keith
Farshee, Lori A.	Roland, Lindsey
Foster, Todd H.	Self, D. Danielle
Friday, E. Lee	Williams, Danielle
Jenkins, Sarah J.	
Martin, Melisa A.	*Chief
Matthews, Jaylan	
McCauley, Tiffany R.	
Missildine, Shawn M.	



Gulf Oil Spill Litigation

Multi-District Litigation No. 2179 - Gulf of Mexico Oil Spill by the rig "Deepwater Horizon" *Review & Update*

Where We Stand

The year 2014 marked a significant transition in the State's civil case against BP and its co-defendants: The Defendants' liability was determined, and Alabama is now working toward proving the amount of damages owed by the Defendants.

Resolution of Liability

Alongside attorneys from the United States, Louisiana, and the private Plaintiffs' Steering Committee, AG Strange and his trial team litigated "Phase One" of the liability trial in New Orleans in the Spring of 2013, and "Phase Two" of the trial in the Fall of 2013. On September 4, 2014, the District Court issued its post-trial findings. In its order, the Court agreed with Alabama and its fellow Plaintiffs that BP, Transocean, and Halliburton were liable for the damages caused by the Spill, and that BP had acted with gross negligence. Armed with these findings (which are subject to appeal), Alabama may now seek compensatory damages against these Defendants, and possibly punitive damages against BP.

The States' Case for Economic Damages

Alabama successfully moved the district court to select its economic damages case to serve as a "test trial" for State economic damage claims; making Alabama the first State to litigate its damages against the Defendants.

In 2014, the Parties produced significant amounts of discovery in preparation for Alabama's damages trial, totaling more than one million pages of documents to date. The Parties briefed the issue of whether Alabama is entitled to a jury trial and will soon brief the issue of whether Alabama's trial must be held in Montgomery or New Orleans. Depositions will likely commence at the beginning of 2015. A definitive trial date and location for Alabama's damages trial has not been set, and AG Strange has vowed to continue his fight for a jury trial in Montgomery in 2015.

Fighting Fraudulent Claims

In 2014, the Criminal Trials Division continued its prosecutions of persons filing fraudulent claims for spill-related damages. To date, the Attorney General has secured ten convictions in Mobile and Baldwin Counties. (For more information on these and other convictions, please refer to the "Criminal Trials" section.)

In-house counsel

Like the previous three years, all spill-related trial and appellate work on behalf of the State was handled by state

attorneys in 2014. Accordingly, the Office has paid \$0 in attorneys' fees to private counsel since Attorney General Strange took office in January 2011, saving Alabamians millions in litigation costs.

Timeline

February 20, 2014

AG Announces Additional Convictions for Charges Related to Theft and Fraudulent Oil Spill Claims

Attorney General Luther Strange announced two felony convictions in Baldwin County on charges related to fraudulent claims for compensation related to the BP oil spill. Seven defendants previously have been convicted and charges are pending against another in Mobile County.

The latest convictions arise from evidence presented by the Attorney General's Office to a Baldwin County grand jury in September of 2013. These defendants were charged with creating and submitting false documentation to BP claiming that they suffered lost income due to the oil spill, and received funds from BP as a result of fraudulent claims.

On February 13, the following defendants pleaded guilty to first degree theft of property and received sentences of imprisonment—which were suspended for terms of probation upon the condition that they pay court costs and fees as well as restitution to BP for funds they received fraudulently. First-degree theft of property is a class B felony; second-degree theft of property and second-degree possession of forged instruments are class C felonies.

Jason Scott Aspinwall, 36, Robertsdale, was sentenced to two years, which was suspended for a term of two years of supervised probation, and ordered to pay \$6,100 in restitution to BP, court costs, and \$50 to the Alabama Crime Victims Compensation Commission.

Douglas Kerr, 39, of Fairhope, was sentenced to three years, which was suspended for a term of two years of supervised probation, and ordered to pay \$11,000 in restitution to BP, court costs, and \$50 to the Alabama Crime Victims Compensation Commission.

Attorney General Strange commended Assistant Attorney General James H. Rutter III of his Criminal Trials Division, who presented the cases to the grand jury, and Special Agents of the Attorney General's Investigations Division. He thanked the Baldwin County Sheriff's Office for its assistance in serving warrants.

March 4, 2014

AG Announces Another Conviction for Charges Related to Theft and Fraudulent Oil Spill Claims

Attorney General Luther Strange announced another felony conviction in a series of prosecutions by the Attorney General's Office, arising from fraudulent claims for



Gulf Oil Spill Litigation

Review & Update

Multi-District Litigation No. 2179 - Gulf of Mexico Oil Spill by the rig "Deepwater Horizon"

compensation related to the BP oil spill.

Brandy Strong, 36, of Mobile, pleaded guilty to attempted first-degree theft of property in Mobile County Circuit Court on February 25. She was sentenced to one year and one day imprisonment, which was suspended for a term of probation for one year. Strong also was ordered to pay court costs.

This conviction concluded a series of prosecutions by the Attorney General's Office that had been pending for fraud involving defendants who created and submitted false documentation to BP claiming they suffered lost income due to the oil spill. Nine defendants previously were convicted in Baldwin and Mobile counties.

"These convictions should serve as a warning that the State of Alabama will not allow anyone to exploit the oil spill tragedy for their unfair and illegal advantage. Fraudulent claims are a crime that will not be tolerated," said Attorney General Strange. "While this concludes the currently pending prosecutions, we will take additional action if it becomes necessary."

Attorney General Strange commended Assistant Attorneys General James H. Rutter III and Stephanie Billingslea of his Criminal Trials Division and Special Agents of the Attorney General's Investigations Division for their work in bringing these cases to a successful conclusion. He also thanked the Mobile County Sheriff's Office for its assistance in serving warrants. These cases were referred to the Attorney General's Office by the U.S. Attorney's Office for the Southern District of Alabama.

April 18, 2014

Statement of Attorney General Luther Strange, Regarding Four-Year Anniversary of Oil Spill

On April 20, 2010, the Deepwater Horizon oil rig exploded, pouring five million barrels of oil into the Gulf of Mexico. Eleven men lost their lives that day, and thousands of Gulf Coast residents lost their livelihoods in the months that followed.

Four years later, the spill's effects persist. Oil still lies off the Alabama coastline. The State has yet to be compensated for its losses, just as thousands of Alabamians have yet to be compensated for their own losses. Many of our people settled with BP in 2012, only to watch BP back away from the deal. Sadly, BP's commitment to the Gulf still lies primarily in television ads, not in reality.

When I took office in January 2011, I made it my top priority to hold BP and its fellow defendants fully accountable under the law. As Coordinating Counsel for the Gulf States, I worked with a team of attorneys to prove to a federal judge

in New Orleans that the gross negligence of BP, Transocean, and Halliburton caused the Spill. I expect a ruling from that first trial soon. The next trial, set for January 2015, will determine how much money BP owes the federal government in civil penalties, a portion of which Alabama will receive through the RESTORE Act. Shortly thereafter, Alabama will be the first state to try its economic damages case in court, hopefully before a jury in Montgomery.

I have not forgotten the 2010 spill, and I will not forget my commitment to keep the pressure on all of those responsible for this spill. Millions of Alabamians expect and deserve nothing less.

September 4, 2014

Statement of Attorney General Luther Strange, Regarding Oil Spill Liability Findings

September 4, 2014 marks a giant step forward in addressing the devastation caused by the 2010 Gulf Oil Spill.

In his order from the first phase of trial, District Judge Carl J. Barbier confirmed what Alabama has argued all along - that BP's "reckless" conduct caused the spill, and that BP's conduct amounted to "gross negligence" and "willful misconduct."

This finding has two positive effects for Alabama. First, BP must pay significantly enhanced civil penalties to the United States—penalties that will amount to billions of dollars—and Alabama will receive a portion of these penalties via the Congressional RESTORE Act.

Second, BP may be liable to Alabama for both compensatory and punitive damages with regard to the State's economic losses. While Judge Barbier ruled that BP would not be liable for punitive damages under Fifth Circuit law (the law which governs trials in New Orleans), he noted that BP would be liable for punitive damages under the law of other circuits. Armed with this finding, Alabama is preparing to prosecute its case for compensatory and punitive damages against BP, a case which we will argue and believe will be heard by a Montgomery jury beginning in late 2015.

Ensuring that those damaged by the 2010 spill are made whole, while punishing those who caused that damage, has been my top priority since taking office. Today's events in New Orleans bring us closer to achieving our goal, and I look forward to taking the next steps back here in Alabama.

Alabamians with questions regarding their eligibility for compensation resulting from the 2010 Gulf Oil Spill should contact the claims program directly at 1-886-992-6174 or visit the program's website, www.deepwaterhorizonsettlements.com.



Illegal Gambling

Review & Update

In 2014, Attorney General Strange continued to investigate and enforce Alabama's gambling laws throughout the State of Alabama, and two Alabama Supreme Court decisions this year increased clarity regarding the illegality of so-called "electronic bingo" in our state.

On April 1, 2014, the Alabama Supreme Court issued an Order addressing several pending gambling cases in Greene County. Within this Order, the Court found that the Attorney General had presented sufficient probable cause to have four search warrants signed by the District Judge for four separate gambling facilities in the county. This opinion firmly established that the Cornerstone test, which had been relied upon by the State in their applications, extended and controlled in Greene County as well as all the other bingo amendments in Alabama.

Most recently, on November 21, 2014, the Alabama Supreme Court issued a definitive ruling against the use of electronic machines in playing the game of bingo in our state. While affirming the State's victory in *State v. HEDA* (Houston County) from 2013, the Supreme Court again affirmed that the Cornerstone test applied to every bingo amendment in the state and held that expert testimony was not necessary to determine whether a game constitutes "bingo" in Alabama. Most importantly, this unanimous decision dealt a fatal blow against "electronic bingo" in this state, as the Court held that the game of bingo requires "meaningful human interaction" and cannot be "played within the circuitry of electronic machinery." Specifically, the Court explained that:

[T]he game traditionally known as bingo is not one played by or within an electronic or computerized machine, terminal, or server, but is one played outside of machines and electronic circuitry. It is a group activity, and one that requires a meaningful measure of human interaction and skill. . . . In accordance with the previously stated list of characteristics, each player purchases and plays the game on one or more cards that . . . are not electronic devices or electronic depictions of playing surfaces but are actual physical cards made of cardboard, paper, or some other functionally similar material that is flat and is preprinted with the grid and the designations referenced above.

This opinion brings clarity for every law enforcement official and District Attorney so that we can enforce Alabama's laws together in the days ahead.

In 2014, the Attorney General also initiated and prosecuted several cases in Circuit Courts around the state. After the Alabama Supreme Court ordered the District Court of Greene County to sign search warrants, three separate forfeiture actions were filed against three different casinos in Greene County. These cases are currently pending and trials are forthcoming.

On September 9, 2014, the Attorney General prosecuted a case against the operators of the Victoryland casino in Macon County. During this week-long bench trial, the State presented evidence showing that the games at Victoryland were slot machines and did not play the game commonly and traditionally known as bingo. After the close of trial and filing of all post trial briefs the case was taken under advisement. A ruling is forthcoming.

Finally, Attorney General Strange has continued to ask the Legislature to increase the maximum penalties for several gambling offenses from Class A misdemeanors to Class C felonies. Although the Legislature failed to act in 2014, the Attorney General hopes that the recent decisions by the Supreme Court will further emphasize the importance of deterring this lawless activity in our state.



2014 Legislative Summary

The following is a list of Law Enforcement / Criminal Justice related legislation that passed during the 2014 Regular Legislative Session.

FORFEITURE: “Alabama Comprehensive Criminal Proceeds Forfeiture Act”

Act 2014-306

Provides for the seizure and forfeiture of property, proceeds, and other instrumentalities acquired directly or indirectly through the commission of certain criminal offenses; provides procedures for the seizure and forfeiture of property, proceeds, and other instrumentalities; provides for the interest of owners and bona fide lienholders of the seized property; provides for the disposition of abandoned forfeited property and proceeds; and provides that a portion of proceeds remaining from the sale of forfeited property may be used to pay restitution for victims of the underlying offenses. Does not apply to or limit forfeiture under 20-2-93, 13A-11-84 (firearms), 13A-12-30 (gambling devices), or 13A-12-198 (obscene matter).

Effective 04/07/2014

CONTROLLED SUBSTANCES: “Landon’s Law” -Additional Drugs, Increase Weight for Synthetic,

Act 2014-184

Increases the requisite weight for trafficking in synthetic controlled substance or a controlled substance analogue for Schedule I controlled substances; adds additional synthetic controlled substances and analogues to the Schedule I controlled substances list.

Effective 03/18/2014

FELONY STATUTE OF LIMITATIONS: Theft by Deception / Securities Fraud / Unclassified Felonies

Act 2014-348

Increases the Statute of Limitations for all unclassified felonies to 5 years; clarifies that the statute of limitations for prosecutions of theft by deception and certain securities violations do not commence or begin to accrue until actual discovery of the facts constituting the deception.

Effective 07/01/2014

HUMAN TRAFFICKING TASK FORCE

Act 2014-199

Establishes the Alabama Human Trafficking Task Force to combat all aspects of human trafficking, including sex trafficking and labor trafficking; to pursue a comprehensive response to crimes of human trafficking; to coordinate strategies to provide necessary services for victims of human trafficking; to focus prevention efforts to end the demand for human trafficking and create awareness through education and community initiatives; and to develop legislation to prevent, intervene, and treat human trafficking; establishes membership, appointing authority, minimum meeting and quorum requirements; and requires submission of an annual report.

Effective 04/02/2014

CAPITAL OFFENSE: “Kelley’s Law” Includes Person under Protection Order

Act 2014-435

Makes it a capital offense for a defendant to murder a person in violation of a protection order issued on behalf of the victim against the defendant or if the protective order was issued as a condition of the defendant’s pretrial release.

Effective 07/01/2014

ETHICS COMMISSION: Redact Confidential Information

Act 2014-071

Requires the State Ethics Commission to redact certain information included on a statement of economic interest filed by a public official or public employee and included within the database on August 1, 2013.

Effective 02/25/2014



2014 Legislative Summary

EXPUNGEMENT

Act 2014-292

Allows a person to petition a court to have the record of certain felony or misdemeanor offenses, violations, traffic violations, or municipal ordinance violations expunged under certain conditions; specifies procedures to include filing fees, distribution of fees, and filing of objection; establishes procedures for expungement and forwarding of records to ACJIC; and provides criminal penalties and limited immunity for unauthorized disclosure.

Effective 07/07/2014

HABITUAL OFFENDER: Repeal Retroactive Application

Act 2014-165

Repeals 13A-5-9.1, which provided that the provisions of the Habitual Offender Act are applied retroactively in the consideration of early parole.

Effective 03/13/2014

CRIME VICTIM COMPENSATION INCREASE

Act 2014-335

Increases the amount of expense a victim or other claimant may receive; expands the definition of work loss; increases the maximum amount of compensation of victims and other claimants; provides for administrative expenditures of the commission.

Effective 10/01/2014

SEX OFFENDER: School Property

Act 2014-421

Makes it a Class C felony for an adult sex offender convicted of a sex offense involving a minor to enter onto the property of a K-12 school while school is in session or attend any K-12 school activity without first notifying and reporting to the principal and complying with school rules regarding the visit.

Effective 04/10/2014

PATENT INFRINGEMENT

Act 2014-218

Prohibits a person from asserting a claim of patent infringement in bad faith; authorizes the Attorney General to investigate claims, issue subpoenas, and file civil enforcement actions; provides for the venue of enforcement suits; authorizes targets of patent infringement assertions in bad faith to file suit in circuit court for damages; provides for exemplary damages; provides factors for consideration by the court when determining whether a patent infringement assertion was made in bad faith; provides limitations on actions; and establishes criminal penalties for violations as a Class A misdemeanor.

Effective 07/01/2014



Law Enforcement Summit 2014



Attorney General Luther Strange speaking in Montgomery to this year's Law Enforcement Summit attendees.

Attorney General Luther Strange presented the 15th annual Attorney General's Law Enforcement Summit on October 7, 2014, carrying on a tradition since 2000. The 2014 theme was "Protecting Alabama Citizens Against Crime." A record of more than 725 law enforcement officers from throughout Alabama were registered to attend, receiving practical information and professional training with a focus on recent developments in legislation, case law and investigative procedures for some of the most prevalent and fastest-growing crimes. The 2014 summit was held in Montgomery at Frazer United Methodist Church.

Attorney General Strange welcomed law enforcement officers and discussed the event's theme. "The protection of our citizens is foremost in my mind and the primary focus of my office," he stated. "Today's criminals target our state's most vulnerable citizens to prey upon, including the young, the elderly, and the meek or mild. Many of these victims are targeted repeatedly by the same or multiple offenders."

This year's conference featured a series of presentations from experts: "Developing a Coordinated Community Response to Crime," from Steve M. Searcy of One Place Family Justice Center; "Domestic Violence/Strangulation/Stalking," from Carrie Gray Shaw of the District Attorney's Office for the 15th Judicial Circuit; "Sex Offender Registration and Notification Act," from Trisha L. Mellberg of the Alabama Office of Prosecution Services; "Human Trafficking: A State Perspective," from Assistant

Attorney General Andrew Arrington; "Criminal Law Update," from Assistant Attorney General Michael Dean; and "Elder Abuse," from John Craft of the Thomas Goode Jones School of Law and J. Seth Gowan of the District Attorney's Office for the 15th Judicial Circuit. Attorney General Strange thanked those who provided valuable information in these presentations, as well as his Law Enforcement Coordinator, Louis Zook, and all staff members of the Attorney General's Office who provided valuable assistance.

In addition, Attorney General Strange announced a new telephone number and email address to receive citizen tips that could help solve cold cases and bring justice. People who may have evidence or clues about cold case sexual assaults and murders are encouraged to call the Attorney General's Office and share this information by leaving a recorded message. The toll-free hotline number is 1-866-419-1236 and email messages may be sent to coldcasetips@ago.state.al.us. The Attorney General's Cold Case Unit targets unsolved or unresolved violent sexually motivated assaults and homicides in which probative DNA exists.

Attorney General Strange thanked the officers in attendance today, and expressed appreciation to their fellow officers in communities throughout Alabama. "I am grateful and proud of the bravery and unselfish dedication that law enforcement officers give to people of Alabama in their service to us each day," he said. "It is my hope that this summit has provided valuable instruction and shared information that you will take back to your communities and that it may be of assistance as you carry out your noble task of protecting the people of Alabama."

The Attorney General's Office also distributed updated copies of the Alabama Criminal Code to be given to law enforcement officers throughout Alabama. Those departments that did not have a representative at the summit may contact the Attorney General's Office by calling 334-242-7300 to arrange receipt of Criminal Code books for their officers.



Law Enforcement Summit 2014

A somber highlight of the day came with the commemoration of fallen officers who lost their lives in the line of duty during the past year. The Attorney General recognized the sacrifices of the following officers with the presentation of memorial flags and certificates of honor:



Deputy Sheriff Allen Kay of the DeKalb County Sheriff's Office died on October 19, 2013. He suffered a fatal heart attack following an incident in which he arrested offenders, held them at gunpoint, and transported them to jail. Deputy Kay served the DeKalb County Sheriff's Office for eight years. Deputy Kay's certificate was presented to DeKalb County Sheriff, Jimmy Harris.



Sergeant Daniel V. Davis of the Phenix City Police Department died on November 10, 2013. He was removing weapons from his patrol car when a firearm discharged, hitting him in the leg and severing an artery. He bled to death before he could call for help. Sergeant Davis served the Phenix City Police Department for eight years. Sergeant Davis' certificate was presented to Phenix City Police Captain, Frank L. Ivey.



Investigator Jeffrey Hugh Bryant of the Centre Police Department died on December 20, 2013. He was en route to meet with another officer when a vehicle hit his patrol car head on and killed him. Investigator Bryant served the Centre Police Department and other law enforcement agencies for more than 20 years. Investigator Bryant's certificate was presented to Centre Police Department Corporal Brent Grimes.



Deputy Sheriff William Heath Kelley of the Covington County Sheriff's Office died on April 18, 2014. He was killed in a vehicle crash while responding to an accident with injuries call. Deputy Kelley served the Covington County Sheriff's Office for eight years. Deputy Kelley's certificate was presented to Covington County Sheriff, Dennis Meeks.



Attorney General's Initiatives

Each year, the Attorney General coordinates with numerous organizations and agencies to implement initiatives he believes will be beneficial to the people of Alabama. Listed below are some of the important events from 2013.

Safe School Awards:

The Attorney General's Office once again received nominations from schools across Alabama to award one school from each of the eight Alabama State School Board Districts with an Attorney General's 2014 Safe School Award of Excellence. This year, special emphasis was placed on the implementation of our Best Practices from the 2013 Safe Schools Initiative.

Nominations were received between August and September, and in October a panel of judges reviewed the nominations to determine a winner from each of the eight state school board districts.

"The Alabama Safe Schools Initiative Awards of Excellence are presented to schools that have performed exceptionally to provide a safe environment for students, with special emphasis on implementation of the Best Practices my office compiled based on last year's recipients," said Attorney General Strange. "These awards are vital to sharing information between schools systems on the best ways to continue protecting students and staff."

Attorney General Strange personally presented these awards this fall to the eight winning schools. Below is a list of the eight recipients of a 2014 Attorney General's Safe School Initiative Award of Excellence for each State School Board District:

- District 1, Orange Beach Elementary, Orange Beach, Baldwin County;
- District 2, Beauregard Elementary School, Opelika, Lee County;
- District 3, Lincoln High School, Lincoln, Talladega County;
- District 4, Northington Elementary School, Tuscaloosa, Tuscaloosa County;
- District 5, Meadow View Elementary School, Alabaster, Shelby County;
- District 6, Hayden Elementary School, Hayden, Blount County;

- District 7, Haleyville High School, Haleyville, Winston County;
- District 8, Oak Park Middle School, Decatur, Morgan County.

Teen Driver Safety Week:

Attorney General Strange partnered with community groups, law enforcement, and safety organizations to promote National Teen Driver Safety Week. "It is important that we call attention to the dangerous and tragic results that careless and unsafe driving can have for teenagers," said Attorney General Strange. "They need to be aware of the real and terrible risk of death or serious injury to themselves, their loved ones, or innocent bystanders. Working together, we can raise awareness and educate teenagers about safer driving practices."

Attorney General Strange has been a strong advocate of teen driver safety. He received the Century Council's 2012 Leadership Award for efforts to reduce underage drinking and drunk driving. The Attorney General partnered with the Century Council, along with basketball player Shaquille O'Neal, to promote the LessThanUThink student-led campaign against binge drinking held at the University of Alabama. Attorney General Strange also was active in a national campaign to discourage texting while driving and to educate young adult drivers about its dangers.



Attorney General's Initiatives



Attorney General Luther Strange presenting Meadow View Elementary with one of the Attorney General's Safe School Awards



Attorney General Luther Strange presenting Lincoln High School with one of the Attorney General's Safe School Awards



Attorney General's Safe School Award



The National Association of Attorneys General Best Brief Award

The National Association of Attorneys General has honored the Office of Attorney General Luther Strange with its Best Brief Award. The award is presented to recognize excellence in brief writing by state attorneys to the United States Supreme Court, and the briefs are judged by a panel of leading members of the Supreme Court Bar.

The brief was in the case of *Lane v. Franks* and was written by Solicitor General Andrew L. Brasher along with Assistant Solicitor General Megan A. Kirkpatrick. In this case, Attorney General Strange personally argued to the U.S. Supreme Court for the First Amendment protection of public employees who act as whistleblowers and testify to expose public corruption.

"I am proud of the outstanding work performed by Andrew Brasher and Megan Kirkpatrick on behalf of the State of Alabama," said Attorney General Strange. "The Office of Attorney General is honored by the continuing national recognition of superior legal performances by our attorneys."

The Alabama Attorney General's Office has a long history of success with the NAAG Best Brief award. In 2002, former Attorney General (and current Federal Judge) William H. Pryor created the position of Alabama Solicitor General to focus on the office's work in the U.S. Supreme Court. Over the 10 years since then, the office has won 11 Best Brief awards. Previous Solicitors General on those briefs were Birmingham attorney John Neiman (two), Special Deputy Attorney General Corey Maze (three), Birmingham attorney Kevin Newsom (four), and current U.S. Department of Justice official Nate Forrester (one).

This year's best brief awards were announced on June 5, 2014 at the Summer Meeting of the National Association of Attorneys General.



Photo L-R: Assistant Solicitor General Megan A. Kirkpatrick and
Solicitor General Andrew L. Brasher



Attorney General Strange Inducted Into Fellows Program Of Alabama Law Foundation

Attorney General Luther Strange is greatly honored to have been inducted this year into the Fellows Program of the Alabama Law Foundation. The Attorney General was honored in a ceremony held in Montgomery on January 25, 2014.

Each year, the Alabama Law Foundation chooses a select group of lawyers to recognize their service and commitment. “No more than 1% of bar members may become Fellows; therefore, the selection committee invites into membership an exceptional group of lawyers who have demonstrated their dedication to improving their communities and state,” according to the Foundation website. Attorney General Strange was nominated by former Attorney General Bill Pryor, who now serves as a judge for the U.S. Court of Appeals for the 11th Circuit.

“I am deeply honored and humbled to be in the company of some of Alabama’s most outstanding public servants,” said Attorney General Strange. “This experience has only served to strengthen my respect for those who are committed to follow the rule of law with integrity and dedication, and to serve in such a way that is for the good of Alabama and her people.”

Currently, there are 296 Fellows of the Alabama Law Foundation. A complete listing and more information about the program may be found at the Foundation’s website, www.alabamalawfoundation.org.

Attorney General Strange Elected Southern Regional Chair For National Association Of Attorneys General

Alabama Attorney General Luther Strange has been chosen by his fellow Attorneys General to serve as Southern Regional Chair for the National Association of Attorneys General (NAAG). The election took place during NAAG’s Summer Meeting in Michigan.

“I am honored that my colleagues have selected me to represent Alabama and our sister Southern states as we move forward in the important tasks before us,” said Attorney General Strange. “The National Association of Attorneys General is a valuable resource for us all, and I am committed to serve the interests of this region and act for the good of our nation,” said Attorney General Strange.

As Southern Regional Chair, Attorney General Strange serves along with the Eastern, Midwestern and Western chairs on the NAAG Executive Committee, which is charged with leadership of the Association’s operations. The mission of NAAG is described on its webpage as “to facilitate interaction among Attorneys General as peers and to facilitate the enhanced performance of Attorneys General and their staffs.”

In addition to Alabama, states in the Southern region include Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, Texas, Virginia, and West Virginia.



